IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 129/2006.

Shri V. Veeraju. ..... Petitioner.

V/s

Addl. Director of Vigilance and ors. ..... Respondents.

Mr. V. A. Lawande, Advocate for the petitioner.

Mr. M. D. Salkar, Addl. Govt. Advocate for the respondents.

CORAM : KSHITIJ R. VYAS, CJ &
SMT. RANJANA P. DESSAI, J.

DATE : JUNE 8, 2006.

P.C.

The petitioner who, at the relevant time was serving as an Inspector, faced departmental inquiry on the allegation that he failed to remain present in a pending case before the Civil Judge, Sr. Division at Panaji, allowing the Court to pass an ex parte decree against the State Government.

2. In his reply, the petitioner came out with a case that he was directed by his superior to go to Fatorda on 13.6.2001 and on 25.8.2001 he attended the matter in High Court and, therefore, he could not remain present before said Court. Pending inquiry, the

petitioner was suspended on 27.2.2002. On 10.7.2002, charge-sheet was issued to the petitioner wherein it is alleged that the petitioner deliberately avoided attending the said Court so as to derive undue benefits to the party who had filed the said civil suit. After completion of the inquiry, upon appreciating the material on record including the reply of the petitioner, the Inquiry Officer, recorded a finding that the charge is duly proved against the petitioner. The disciplinary authority thereafter, passed an order on 20.1.2006 in terms of Rule 9 of the CCS (Pension) Rules, 1972 imposing penalty on the petitioner of 5 % cut in the pension for a period of one year. Hence, the present petition.

3. We have heard the learned Counsel appearing for the petitioner as well as the respondents. The learned Counsel appearing for the petitioner, after taking us to the evidence on record, submitted that the Inquiry Officer could not have recorded the finding against the petitioner that he avoided attending the Court and allowed the Court to pass an ex parte decree against the Government. By inviting our attention to the evidence of other officers, he submitted that the petitioner was, in fact, asked by his officer to attend some other work at some other place. Having carefully examined the reasonings of the Inquiry Officer, we are fully convinced that the Inquiry Officer has correctly appreciated the evidence on record and recorded the

finding namely that the petitioner miserably failed to established that he was asked by his Officer to go to some other place. The said finding having recorded after appreciation of evidence on record, it is not proper for this Court to interfere with the said finding by reappreciating the evidence on record in writ jurisdiction under Article 226 of the Constitution. In this view of the matter, we see hardly any substance in this petition.

4. An argument was made on behalf of the petitioner that petitioner has not been paid the subsistence allowance during the pendency of the inquiry, and other retirement monetary benefits, over and above the grievance made by the learned Counsel for the petitioner, namely that the penalty imposed on the petitioner is too harsh. We dismiss this petition on merits. However, the petitioner shall make a representation to the concerned Authority in respect of his grievance as regards his monetary benefits. We are sure that the Authority concerned shall take into the representation as and when made by the petitioner and shall pass an appropriate order in accordance with law. Subject to these observations, the petition stands dismissed.

KSHITIJ R. VYAS, CJ.

SMT. RANJANA P. DESSAI, J.

ssm.